



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

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LITIGATION BUREAU

July 30, 2021

VIA Email

Hon. Eric R. Komitee
United States District Court for the
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Capogrosso v. Gelbstein, et al., No. 18 Civ. 2710 (EK) (LB)

Dear Judge Komitee:

This Office represents Defendants Gelbstein, Traschen, and Calvo and the DMV (the “State Defendants”) in the above-referenced matter. We write pursuant to your Honor’s Individual Rule I(C) to request an extension of time for the State Defendants to submit their reply papers in further support of summary judgment, from the current deadline of August 8 to September 10, 2021.

This request is necessary because although the Court recently directed Plaintiff to file his opposition papers by July 29, 2021, it does not appear that he has filed them (at least in their entirety), nor does this Office appear to have received them (see July 6, 2021 docket order).¹ Notably, Plaintiff’s opposition papers were originally due a month ago, on June 29, 2021, but he subsequently requested, *nunc pro tunc*, a 30-day extension of time. *Id.* In granting Plaintiff’s request, the Court opined that “[i]n the future, the Court will deny untimely requests for scheduling relief absent extraordinary circumstances accompanied by documentary support.” *Id.*

In addition, an extension is also requested to accommodate existing deadlines in other matters currently being handled by this Office and pre-existing vacation schedules during this late summer

¹ Somewhat confusingly, on June 29, 2021—the same date that Plaintiff filed his letter requesting a 30-day extension of his time to submit opposition papers—he also filed a document styled as “PLTFF’S AFFIRMATION in Opposition to State Defts’ 179 MOTION for Summary Judgment.” (Dkt. No. 235) This “affirmation” purports to set forth responses to the State Defendants’ Rule 56.1 Statement, but it is not clear whether *pro se* attorney Plaintiff intended this submission to constitute the entirety of his opposition the summary judgment motion or just a part of it, particularly given that it does not include a memorandum of law or address State Defendants’ legal arguments. Moreover, because Plaintiff requested an additional 30 days to file his “opposition” at the same time that he filed this “affirmation,” the State Defendants’ expectation was that he intended to file additional opposition materials, but Plaintiff has not elucidated the matter.

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season. This is the State Defendants' first request for an extension of time to file their reply papers. I contacted pro se attorney Plaintiff earlier today to attempt to obtain his consent, but have not yet received a response. We thank the Court for its time and consideration of this request.

Respectfully,



D. Stan O'Loughlin
Assistant Attorney General

Cc: All counsel of record (via ECF)

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